

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JONATHAN COHEN, SANDRA
FABARA, STEPHEN EBERT, LUIS
LAMBOY, ESTEBAN DEL VALLE,
RODRIGO HENTER DE REZENDE,
DANIELLE MASTRION, WILLIAM
TRAMONTOZZI, JR., THOMAS
LUCERO, AKIKO MIYAKAMI,
CHRISTIAN CORTES, DUSTIN
SPAGNOLA, ALICE MIZRACHI,
CARLOS GAME, JAMES ROCCO,
STEVEN LEW, FRANCISCO
FERNANDEZ, and NICHOLAS KHAN,

Case No. 13-CV-5612(FB)(RLM)

Plaintiffs,

-against-

G&M REALTY L.P., 22-50 JACKSON
AVENUE OWNERS, L.P., 22-52
JACKSON AVENUE, LLC, ACD
CITIVIEW BUILDINGS, LLC, and
GERALD WOLKOFF,

MEMORANDUM AND ORDER

Defendants.

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MARIA CASTILLO, JAMES COCHRAN, Case No. 15-CV-3230(FB)(RLM)
LUIS GOMEZ, BIENBENIDO GUERRA,
RICHARD MILLER, KAI
NIEDERHAUSEN, CARLO NEIVA,
RODNEY RODRIGUEZ, and KENJI
TAKABAYASHI,

Plaintiffs,

-against-

G&M REALTY L.P., 22-50 JACKSON

AVENUE OWNERS, L.P., 22-52
JACKSON AVENUE, LLC, ACD
CITIVIEW BULIDINGS, LLC, and
GERALD WOLKOFF,

Defendants.

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Appearances:

For the Plaintiff

ERIC BAUM
ANDREW MILLER
Eisenberg & Baum LLP
24 Union Square East
New York, NY 10003

For the Defendant

DAVID G. EBERT
MIOKO TAJIKA
Ingram Yuzek Gainen Carroll &
Bertolotti, LLP
250 Park Avenue
New York, NY 10177

BLOCK, Senior District Judge:

Judgment was entered against defendants in these actions on February 21, 2018, in the amount of \$6.75 million dollars. They duly filed a notice of appeal, triggering an automatic 14-day stay of enforcement of the judgment under Federal Rule of Civil Procedure 62(a), which will expire on March 7, 2018. They now have filed a letter-request seeking a discretionary continuation of the stay for an unspecified period of time to allow them to either secure an adequate bond or letter of credit.

Under Federal Rule of Civil Procedure 62(d), an appealing party may stay execution of a judgment pending appeal by posting a supersedeas bond. “The stay issues as a matter of right in cases within Rule 62(d), and is effective when the supersedeas

[bond] is approved by the court.” 11 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2905 (3d ed.) (citing *Am. Mfrs. Mut. Ins. Co. v. Am. Broad.-Paramount Theaters, Inc.*, 87 S. Ct. 1, 3 (1966)).

Defendants may, with the Court’s permission, file a letter of credit in lieu of a bond. *See Trans World Airlines, Inc. v. Hughes*, 515 F.2d 173, 177 (2d Cir. 1975) (approving district court’s exercise of its discretion in allowing such a substitute). The Court will likely approve an appropriate letter of credit in lieu of the bond.

In the exercise of its discretion, the Court grants defendants a seven-day extension of the current stay until March 14, 2018. This will afford defendants a total of 21 days from judgment to secure a supersedeas bond or, alternatively, an appropriate letter of credit. Regardless of which, if any, is presented to the Court, it will rule on its adequacy when submitted.

The defendants’ letter also advises the Court that they intend to submit post-trial motions challenging the efficacy of the Court’s opinion, and ask, in anticipation of the filing of the motions, that once received, the Court exercise its discretion and—even if no stay has been effected by reason of the filing of a supersedeas bond or letter of credit—nonetheless stay enforcement of the judgment pending judicial resolution of the motions. Federal Rule of Civil Procedure 62(b) authorizes the Court to do so. Since such motions have yet to be filed, the Court will await their receipt before ruling on this

premature request.

SO ORDERED

Brooklyn, New York
March 6, 2018

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge